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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

09/977,734 10/12/2001 Kerry P. Rhodes 31193-UT 2863

5179 7590 09/08/2003

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EXAMINER

SHANLEY, DANIEL G

ART UNIT

PAPER NUMBER

3723

DATE MAILED: 09/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/977,734

Applicant(s)

RHODES

Examiner

Daniel G. Shanley

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspond nc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 36-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Group I in Paper No. 4 is acknowledged. The traversal is on the ground(s) that the method and apparatus require the same search. This is not found persuasive because the two Groups are classified differently. Therefore, the two Groups require different searches.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- 1) Claim 1 recites the limitation "said transmission shaft" in 7. There is insufficient antecedent basis for this limitation in the claim.
- 2) Claim 7 recites the limitation "said transmission shaft" in 1. There is insufficient antecedent basis for this limitation in the claim.
- 3) Claim 6, recites the limitation "six brackets," this is a positive limitation and does not further limit the "at least two side support bracket." Is this applicant's intent or is applicant purporting to further limit the "at least two side support bracket."
- 4) Claim 7, see indentation 3) above with reference to the limitation "three cross support beams."

5) Claim 18, see indentation 3) above with reference to the limitation "a transmission shaft."

6) Claim 18, "said end" is used, however the line preceding indicates there are two ends. To which end is the hook connected?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2¹⁷ are rejected under 35 U.S.C. 102(b) as being anticipated by Klann.

Klann, in Figure 1, discloses at least two side support brackets (4 and 5) comprising an upper and lower end, at least one cross support beam (9) comprising an adjustable length and opposing ends, a plurality of lifting mechanisms (14 and 15), and a power source connected to the plurality of lifting mechanisms (12 and 13). Lastly, the cross support beam is proximate to the upper ends of the support brackets.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1) Claims 1-5, 7, 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Colley.

Colley, in Figure 1, discloses at least two side support brackets (6) comprising an upper and lower end, at least three cross support beams (10a) comprising an adjustable length and opposing ends, side support beams 5a, a plurality of lifting mechanisms (21), and a power source connected to the plurality of lifting mechanisms (13). Lastly, the cross support beam is proximate and in perpendicular relation to the upper ends of the support brackets. Lastly, the support beams and cross beams are capable of being folded.

Colley discloses the claimed invention except for adjustability of the support frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide adjustability, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954)

2) Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Colley.

Colley, ^{as modified} ~~discussed in detail~~ above, discloses the claimed invention except for explicitly reciting six brackets. It would have been obvious to one having ordinary skill in the art at the time the invention was made ^{for her} to modify the invention of Colley and included multiple support brackets for each pocket, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

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3) Claims 32-~~35~~⁵ are rejected under 35 U.S.C. 10~~3~~^{2(b)} as being unpatentable over Suhy.

Suhy discloses the combination of a pool table and lifting apparatus. The lifting apparatus has a support bracket 18 with an upper and lower end and a hook means 4. The lower end rests on the upper end of the pool table cabinet. Furthermore, there is a leg extension 12 adapted for connection to the upper cabinet of a pool table and contacts the pool table at a point below the upper surface (generally near numeral 18 in Figure 4). The pool table in Figure 4 additionally comprises pockets. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Suhy and included multiple support brackets for each pocket, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Allowable Subject Matter

Claims 8-10, 13-16, and 18-31 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McNulty, Lee, and Klann disclose lifting apparatuses.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel G. Shanley whose telephone number is 703-305-0306. The examiner can normally be reached on M-F 0830-1700.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 703-308-2687. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

A handwritten signature in black ink, appearing to read "Joseph J. Hail, III". The signature is stylized with a large initial "J" and a cursive "Hail".

DGS
August 29, 2003

Joseph J. Hail, III
Supervisory Patent Examiner
Technology Center 3700